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Thaddeus Gabara 62 Burlington Rd Murray Hill, NJ 07974			EXAMINER PULLIAS, JESSE SCOTT	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte QUINTON ANDREW GABARA,
CONSTANCE MARIE GABARA,
HELEN MARY GABARA,
SIMONE MARIE GABARA,
CASSANDRA MARLENE GABARA,
ASHER THOMAS GABARA, and
THADDEUS JOHN GABARA

Appeal 2016-006438
Application 13/013,886
Technology Center 2600

Before STEPHEN C. SIU, JOHNNY A. KUMAR, and ALEX S. YAP,
Administrative Patent Judges.

KUMAR, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants¹ appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 38–59.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify TrackThings LLC as the real party in interest (App. Br. 1).

² Claims 1–37 have been canceled.

Exemplary Claim

Claim 38, reproduced below, is illustrative of the claimed subject matter:

38. A portable wireless system comprising:

a voice recognition system configured to distinguish each voice in a conversation of a plurality of people in the same place; and

a request circuit configured to isolate and interpret a command within the conversation, wherein the command is selected from the group consisting of determining and providing a meaning of at least one word within the conversation, sending an email containing a portion of the conversation, and providing a grammatical correction to a statement in the conversation.

The Examiner's Rejections

Claims 38–57 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Forbes (US 2008/0114594 A1, May 15, 2008). Final Act. 3–8.

Claims 58 and 59 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Forbes in view of Kaeser (US 8,150,676 B1, Apr. 3, 2012). Final Act. 8–9.

ANALYSIS³

We have reviewed the Examiner's rejections in light of Appellants' arguments that the Examiner has erred. We disagree with Appellants' conclusions. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the

³ Appellants focus their contentions on claim 38, allowing independent claims 44 and 51 to stand or fall with claim 38. App. Br. 6–16. Separate patentability is not argued for dependent claims 39–43, 45–50, and 52–59 other than their dependence from claims 38, 44, and 51. *Id.*

reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. We concur with the conclusions reached by the Examiner. We highlight the following for emphasis.

Based on Appellants' arguments (App. Br. 5–7; Reply Br. 2–3), the dispositive issue on appeal is whether the Appellants have shown that the Examiner erred in finding that Forbes teaches “a portable wireless system” as recited in exemplary claim 38.

We begin our analysis by first considering the scope and meaning of the claim limitation “portable wireless system” which must be given the broadest reasonable interpretation consistent with Appellants' disclosure, as explained in *In re Morris*:

[T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification.

In re Morris, 127 F.3d 1048, 1054 (Fed. Cir. 1997). *See also In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989) (stating that “claims must be interpreted as broadly as their terms reasonably allow”). Our reviewing court further states, “the ‘ordinary meaning’ of a claim term is its meaning to the ordinary artisan after reading the entire patent.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1321 (Fed. Cir. 2005) (en banc).

In particular, Appellants' Specification states the following:

A portable wireless system is a device that contains many different blocks that are used to perform several functions. For example, portable wireless systems include the iPod from Apple Computer Inc. or the Android phone from Google. In addition, the portable wireless system can be customized to perform a

particular function such as reading a book in a device called Kindle from Amazon.

Spec. ¶ 3.

In other words, according to the Appellants' Specification, the portable wireless system includes mobile phones, such as the Android phone. We note that the relevant portions of Appellants' Specification cited above do not provide an express definition of a "portable wireless system." The Examiner finds, and we agree, that under the broadest reasonable interpretation consistent with Appellants' Specification, Forbes' "mobile phone" meets the claimed "portable wireless system" limitation. Ans. 4–5 (citing Forbes ¶ 82, Fig. 2, wireless phone 202).

Appellants' argument (App Br. 6) that Forbes' mobile phone is not a portable wireless system because it *may* be connected to a Kiosk Personal Computer is unpersuasive because it is not commensurate with the scope of claim 38, which does not preclude connecting the portable wireless system to an external device such as a Kiosk PC.

Thus, we sustain the rejections of claims 38–59.

CONCLUSION

The Examiner did not err in rejecting claims 38–59 as being unpatentable under 35 U.S.C. § 103(a).

DECISION

The Examiner's rejections of claims 38–59 are affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2016-006438
Application 13/013,886

AFFIRMED